THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27152 OF 2005

DATED 21st SEPTEMBER, 2006

BETWEEN

Pydi Chiranjeevulu

… Petitioner

and

The Chief Managing Director, the Transmission Corporation of A.P., Limited, Vidyut Soudha, Khairatabad, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27152 OF 2005

ORDER:

The petitioner filed the instant writ petition assailing the order, dated 14.11.2005, passed by the assessing authority, namely, second respondent, under Section 126 of the Electricity Act, 2003 (the Act, for brevity) calling upon the petitioner to pay a sum of Rs.3,57,253/- towards the value of the energy charges.

The petitioner herein is a proprietor of non-trading rice mill availing supply of electricity from A.P.Eastern Power Distribution Company Limited (APEPDCL). The third respondent inspected the premises on 10.10.2004 and booked a case of pilferage of energy. Third respondent provisionally assessed the value of pilfered energy at Rs.3,57,103/- and informed the petitioner that he can file his objections before the second respondent. Accordingly, the petitioner submitted a representation/objections before the second respondent. After considering the same, second respondent issued impugned order.

The impugned order is assailed on number of grounds. It is also urged that sub-section (6) of Section 126 of the Act enables the assessing authority to assess the value of energy at a rate equal to 1½ times the tariff rates applicable to category of service but the provisional assessing authority and the final assessing authority applied the rate at 3 times, which cannot be sustained. It is also contended that when the petitioner submitted objections on 10.02.2005, petitioner has given the particulars of the energy used by the petitioner from the month of January to December for the years 1998 to 2004 but the same was not considered by the second respondent.

A counter affidavit is filed *inter alia* opposing the writ petition on the ground that the petitioner has efficacious alternative remedy under Section 126 of the Act. These matters are listed at interlocutory stage on the application filed by the respondents for vacating the interim orders. At that stage itself, the matter is heard finally.

If the rate of 1½ times the tariff is applied for assessing the value of the energy allegedly pilfered, the petitioner would be liable to pay a sum of Rs.1,75,500/- as per Section 126(6) of the Act. Presumably, for this

reason, this Court in W.P.M.P.No.34873 of 2006, on 21.12.2005, while suspending the impugned order directed the petitioner to deposit a sum of Rs.50,000/- (approximately 1/3rd of Rs.1,75,500/-). In view of this, the petitioner is given liberty to file an appeal before the Chief General Manager, APEPDCL., in which event, the appeal may be taken up for consideration without insisting on compliance of Section 126(2) of the Act. If the petitioner has already deposited a sum of Rs.29,758/- as directed by this Court in W.P.M.P.No.1239 of 2006, dated 27.01.2006, the balance amount of Rs.20,242/- to be deposited by him. If the petitioner has paid the entire deposit amount of Rs.50,000/-, the appellate authority may decide the matter independently without in any manner being influenced by the observations made hereinabove. It is made clear that pending the appeal, there shall not be any disconnection of power supply to the petitioner.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

21.09.2006.
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